

**REMARKS**

Favorable reconsideration of this application as presented herein is requested. Claims 9-18 are pending in the present application. In the above amendments, claims 9 and 13 have been amended.

In the Office Action mailed February 25, 2004, the Examiner rejected claims 9-10 and 13-15 under 35 U.S.C. § 102 and claims 11-12 and 16-18 under 35 U.S.C. § 103.

Applicants respectfully respond to this Office Action.

Claim Rejections under 35 U.S.C. § 102

The Examiner rejected claims 9-10 and 13-15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,901,075 to Offord et al.

The present invention relates to a time-division power assignment that cyclically reduces the carrier power level to at least one sector thus reducing interference in neighboring sectors.

The rejection contends that Offord teaches an apparatus that comprises a plurality of tap weights in a FIR filter whose coefficients are associated with the data signals received during assigned time slots. In order to overcome this rejection, claims 9 and 13 have been amended to emphasize that the number of taps is equal to the number of symbols per sample set. (See Applicants' Specification, p.29, ll. 19-20.) This feature is not described in Offord.

Consequently the Offord Patent does not anticipate the structure defined in claims 9 and 13 of the present application under 35 U.S.C. § 102(b) for at least the foregoing reasons. Claims 10, 14 and 15 are claims dependent from claims 9 and 13 and therefore include all the limitations of those independent claims. Since the Offord Patent does not render claims 9-10 and 13-15, as amended, unpatentable. Applicants respectfully submit that the rejections thereof be withdrawn by the Examiner.

Claim Rejections under 35 U.S.C. § 103

Next, the Examiner rejected claims 11, 12 and 16-18 under 35 U.S.C. § 103(a) as being unpatentable over Offord in view of Chin-Hwa Lee et al. (Signals, Systems and Computers 1994, Vol.1, pp 89-93.) To establish a prima facie case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation of, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference(s) must teach or suggest all the claim limitations.

*not clear!*  
Applicants agree that Offord fails to disclose generating a data rate base on the carrier to interference ratio (C/I) estimate for each time slot. The Examiner went on to say that Lee provides this absent feature in Offord. With respect, the Examiner's argument is traversed. Although Lee describes variable data rates, the reference neglects to mention a data rate decision node operative to receive capacity estimates from the equalizer and generate a first data rate decision for the first capacity estimate and a second data rate decision for the second capacity estimate. (See Applicants' Specification, p.7, ll.18-21.) In addition, Lee does not disclose the added limitation in amended claim 9.

Applicants thus respectfully submit that claim 17 is not rendered obvious by the Offord Patent when considered alone or in combination with Lee. Claims 11, 12, and 16-18 depend from claims 9 and 17 and therefore include all the limitations of those independent claims. Since the Offord and Lee references do not render claims 11, 12 and 16-18 unpatentable, Applicants respectfully submit that the rejections thereof be withdrawn by the Examiner.

## REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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By: Arti A. Kane / Limited Recognition  
Arti A. Kane, Limited Recognition  
858-845-2650

QUALCOMM Incorporated  
5775 Morehouse Drive  
San Diego, California 92121  
Telephone: (858) 651-4125  
Facsimile: (858) 658-2502



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**Expires: December 5, 2004**

Harry I. Moatz  
Director of Enrollment and Discipline

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